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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re

Case Nos.: 14-41650-CEC

264 LENOX, LLC,

Debtor.

Chapter 11

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**AFFIRMATION IN OPPOSITION TO COLFIN FCSB FUNDING A, LLC'S MOTION
FOR RELIEF FROM AUTOMATIC STAY PURSUANT TO 11 U. S. C. § 362(d)(1).**

Debtor, 264 Lenox, LLC (the "Debtor"), by its undersigned counsel, Alla Kachan, Esq., submits this affirmation in opposition to Colfin FCSB Funding A, LLC's ("Mortgagee") motion for relief from the automatic stay pursuant to 11 U. S. C. § 362(d)(1), and in opposition thereto, avers as follows:

THE DEBTOR HAS EQUITY AVAILABLE IN THE SUBJECT-PROPERTY

1. The Debtor commenced this chapter 11 case with the filing of a voluntary petition on April 4, 2014. See Voluntary Petition, ECF Doc. No. 1.
2. As per the voluntary petition, the Debtor is a Single Asset Real Estate, as defined in 11 U. S. C. § 101(51B).
3. Mortgagee presently moves this Court for relief from the automatic stay under the premise that the Debtor has absolutely no equity available in the subject-property.
4. As per the Schedule A filed by the Debtor, the subject-property was valued at \$1,382,000.00. See Schedule A, ECF Doc. No. 1.
5. As per the Schedules A and D filed by the Debtor, the subject-property had one

secured claim against it, the claim belonging to Mortgagee, in the amount of \$1,345,057.20. See Schedules A and D, ECF Doc. No. 1.

6. As per the Debtor's Schedules, the Debtor has equity in the subject-property in the amount of \$36,942.08.

7. Additionally, Mortgagee alleges that, as per a lien search it obtained, there are liens for unpaid taxes and other assessments totaling \$19,593.56. See Mortgagee's Motion, ¶ 7.

8. Assuming Mortgagee's allegation of these liens for taxes and other assessments is accurate, there still remains equity of \$17,349.24.

9. The balance of Mortgagee's claim, to eliminate the Debtor's equity, is in the form of interest, costs and attorney's fees added to the principal balance owed on Mortgagee's claim.

10. At the time of filing, Debtor's valuation of the property was made based on damages caused by a tenant that had subsequently been evicted.

11. Additionally, a tenant that had been occupying the ground floor has also been evicted.

12. Now that the subject-premises is in substantially relettable condition, the Debtor posits that the subject-property has actually increased in value.

13. Thus, since the Debtor has equity in the subject-property, the instant motion should be denied.

THE DEBTOR INTENDS ON PROPOSING A FEASIBLE PLAN

14. As previously mentioned, eviction proceeding have been completed , allowing the reletting of the first floor premises and allowing the restoration of the upstairs premises.

15. The Debtor is in communication with several parties discussing both the

prospects of sale and of rental, a potential sale would satisfy the claim of the Mortgagee (if sold), or fund a plan of reorganization of the Debtor (if reletted).

16. As this is a Single Asset Real Estate, the ability of the Debtor to keep and use the subject-property is integral to any plan of reorganization.

17. Relief from the automatic stay would jeopardize any and all opportunities of the Debtor to develop and fund any likely successful plan of reorganization.

WHEREFORE, the Debtor respectfully requests that this Court deny the instant motion by the Mortgagee seeking relief from the automatic stay, and for such other and further relief this Court deems just and proper.

Dated: New York, New York
June 30, 2014

/s/ Alla Kachan
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